August 27, 2019

VIA CERTIFIED MAIL - RETURN RECEIPT REQUESTED

SEP 04 2019

Sycamore Landfill, Inc.
ATTN: Managing Agent
8514 Mast Blvd.
Santee, CA 92071

Republic Services, Inc.
ATTN: Managing Agent
8514 Mast Blvd.
Santee, CA 92071

Republic Services, Inc.
ATTN: Managing Agent
18500 North Allied Way
Phoenix, AZ 85054

CT Corporation System
Registered agent for:
Sycamore Landfill, Inc. & Republic Services, Inc.
818 West Seventh Street, Suite 930
Los Angeles, CA 90017

Sycamore Landfill, Inc.
ATTN: Managing Agent
18500 North Allied Way
Phoenix, AZ 85054

Re: Notice of Violation and Intent to File Suit Under the Clean Water Act

To the Above-Listed Recipients:

Please accept this letter on behalf of San Diego Coastkeeper ("Coastkeeper") and Coastal Environmental Rights Foundation ("CERF") regarding violations of the Clean Water Act[1] and California's Storm Water Permit[2] occurring at the Sycamore Landfill Facility, 8514 Mast Boulevard, Santee, California 92071 ("Sycamore Landfill Facility" or "Facility"). The purpose of this letter is to put Sycamore Landfill, Inc. and/or Republic Services, Inc. ("Republic"), as the owner(s) and/or operator(s) of the Facility, on notice of the violations of the Storm Water Permit occurring at the Facility, including, but not limited to, discharges of polluted storm water from the Sycamore Landfill Facility into local surface waters. Violations of the Storm Water Permit are violations of the Clean Water Act. As explained below, Republic is liable for violations of the Storm Water Permit and the Clean Water Act.

Section 505(b) of the Clean Water Act, 33 U.S.C. § 1365(b), requires that sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Clean Water Act, 33 U.S.C. § 1365(a), a citizen must give notice of his/her intention to file suit. Notice must be given to the alleged violator, the Administrator of the United States Environmental Protection Agency ("EPA"), the Regional Administrator of the EPA, the Executive Officer of the water pollution

[1] Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.*
[2] National Pollution Discharge Elimination System ("NPDES") General Permit No. CAS000001, Water Quality Order No. 92-12-DWQ, Order No. 97-03-DWQ ("1997 Permit"), as amended by Order No. 2014-0057-DWQ ("2015 Permit).

control agency in the State in which the violations occur, and, if the alleged violator is a corporation, the registered agent of the corporation. *See* 40 C.F.R. § 135.2(a)(1). This notice letter ("Notice Letter") is being sent to you as the responsible Owner and/or Operator of the Sycamore Landfill Facility, or as the registered agent for the owner and/or operator. This Notice Letter is issued pursuant to 33 U.S.C. §§ 1365(a) and (b) of the Clean Water Act to inform Republic that Coastkeeper and CERF intend to file a federal enforcement action against Republic for violations of the Storm Water Permit and the Clean Water Act sixty (60) days from the date of this Notice Letter.

1. BACKGROUND

1.1. San Diego Coastkeeper and Coastal Environmental Rights Foundation.

San Diego Coastkeeper is a non-profit public benefit corporation organized under the laws of the State of California with its office at 2825 Dewey Road, Suite 207, San Diego, California 92106. Founded in 1995, San Diego Coastkeeper is dedicated to the preservation, protection, and defense of the environment, wildlife, and natural resources of San Diego County watersheds. To further these goals, Coastkeeper actively seeks federal and state agency implementation of the Clean Water Act, and, where necessary, directly initiates enforcement actions on behalf of themselves and their members.

CERF is a non-profit public benefit corporation organized under the laws of the State of California with its main office in Encinitas, California. CERF is dedicated to the preservation, protection, and defense of the environment, the wildlife, and the natural resources of the California Coast. CERF's mailing address is 1140 S. Coast Highway 101, Encinitas, California 92024.

Members of Coastkeeper and CERF live in and around, recreate in and around, and enjoy the waters into which the Facility discharges, including the Little Sycamore Canyon Creek, the San Diego River, and the Pacific Ocean (collectively "Receiving Waters"). Members of Coastkeeper and CERF use the Receiving Waters to swim, boat, kayak, surf, bird watch, view wildlife, hike, bike, walk, run, and/or for general aesthetic enjoyment. Additionally, members of Coastkeeper and CERF use the Receiving Waters to engage in scientific study through pollution and habitat monitoring and restoration activities. The discharges of pollutants from the Facility impair each of these uses. Discharges of polluted storm water from the Facility are ongoing and continuous. Thus, the interests of Coastkeeper's and CERF's members have been, are being, and will continue to be adversely affected by the Facility Owner and/or Operator's failure to comply with the Clean Water Act and the Storm Water Permit.

1.2. The Owner and/or Operator of the Facility.

Information available to Coastkeeper and CERF indicates that Republic Services, Inc. is the Owner and/or Operator of the Sycamore Landfill Facility and has been for at least the past five years. *See* November 2016 Facility Storm Water Pollution Prevention Plan ("SWPPP"), § 1.1 ("The property [located at 8514 Mast Boulevard] is owned by Republic Services and is being

operated by Republic."). Republic Services, Inc. is herein referred to as "Republic" or "Facility Owner and/or Operator." Information available to Coastkeeper and CERF indicates that Republic Services, Inc. is an active Delaware corporation and its registered agent is CT Corporation System, 818 West Seventh Street, Suite 930, Los Angeles, California 90017.

The Sycamore Landfill Facility Owner and/or Operator has violated and continues to violate the procedural and substantive terms of the Storm Water Permit including, but not limited to, the illegal discharge of pollutants from the Facility into local surface waters. As explained herein, the Sycamore Landfill Facility Owner and/or Operator is liable for violations of the Storm Water Permit and the Clean Water Act.

1.3. <u>The Facility's Storm Water Permit Coverage</u>.

Certain classified facilities that discharge storm water associated with industrial activity are required to apply for coverage under the Storm Water Permit by submitting a Notice of Intent ("NOI") to the State Water Resources Control Board ("State Board") to obtain Storm Water Permit coverage. Information available to Coastkeeper and CERF indicates that the Sycamore Landfill Facility first obtained Storm Water Permit coverage on November 10, 1997. The Facility submitted its most recent NOI on May 4, 2015 ("2015 NOI"). Coastkeeper and CERF obtained the 2015 NOI from California's online Storm Water Multiple Application & Reporting Tracking System ("SMARTs") database. The 2015 NOI lists the Facility Waste Discharge Identification ("WDID") number as 9 37I013507. The NOI identifies the Facility site name as "Sycamore Landfill" and Facility Operator as "Sycamore Landfill Inc." However, the Facility's SWPPPs dated June 2015 ("2015 SWPPP"), and November 2016 ("2016 SWPPP") state that the property is both owned and operated by Republic Services. 2016 SWPPP § 1.1; 2015 SWPPP § 1.1. Furthermore, the Facility's Level 2 Exceedance Response Action Plan dated December 2017 ("2017 Level 2 ERA Action Plan"), and Level 2 ERA Soil Background Study dated December 31, 2018 ("2018 Level 2 ERA Soil Study") were both "prepared for Republic Services, Inc.," and both state that the property is owned and operated by Republic Services, Inc. As such, information available to Coastkeeper and CERF indicates that Republic Services, Inc. is the owner and/or operator of the Facility.

The 2015 NOI states that the facility size is 491 acres, 324 of which is industrial area exposed to storm water, but does not indicate what percent of the site is impervious. The 2016 SWPPP confirms that the Facility is 491 total acres, and clarifies that 324 acres are currently permitted for landfill operations. The 2016 SWPPP further clarifies that approximately five percent of the Facility is impervious. 2016 SWPPP § 2.1.5. On December 12, 2018, the California Regional Water Quality Control Board, San Diego Region, ("Regional Board") issued Waste Discharge Requirements Order No. R9-2018-0069 ("Order R9-2018-0069") for the Sycamore Landfill, which increases the Landfill's lateral waste disposal footprint from 324 acres to 352.6 acres. Order R9-2018-0069, Information Sheet at C-2.

The 2015 NOI lists the Standard Industrial Classification ("SIC") code for the Sycamore Landfill Facility as 4953 – "Refuse Systems," as well as 4213 – "Trucking, Except Local." However, the Facility SWPPPs list only SIC code 4953. Information available to Coastkeeper

and CERF indicate that both SIC 4213 and 4953 apply to the Facility. The entire Sycamore Landfill Facility requires Storm Water Permit coverage.

1.4. Storm Water Pollution and the Waters Receiving Facility's Discharges.

With every significant rainfall event, millions of gallons of polluted storm water originating from industrial operations around San Diego County, such as the Sycamore Landfill Facility, flow into storm drains and local waterways. The consensus among agencies and water quality specialists is that storm water pollution accounts for more than half of the total pollution entering surface waters each year. Such discharges of pollutants from industrial facilities contribute to the impairment of downstream waters and aquatic dependent wildlife. These contaminated discharges can and must be controlled for the ecosystem to regain its health.

Polluted discharges from industrial facilities similarly situated to the Sycamore Landfill Facility often contain the following pollutants: heavy metals such as copper, iron, lead, aluminum, zinc, manganese, and selenium; pathogens and bacteria such as E. coli, enterococcus, and fecal coliform; excessive nutrients such as nitrogen, phosphorus, and ammonia; oil and grease ("O&G"), hydraulic fluids, antifreeze, aromatic hydrocarbons, and chlorinated hydrocarbons; solvents and detergents; paints; and other chemical compounds such as benzoic acid, phenol, p-cresol, and α-terpineol. In addition, due to the specific industrial activities conducted and industrial materials handled at the Sycamore Landfill Facility, as described in Section 2.2 *infra*, additional pollutants likely present at the site include: cadmium, hexavalent chromium, nickel, PCBs, calcium, chloride, magnesium, potassium, sodium, mercury, arsenic, humic and fulvic acids, creosote, and pentachlorophenol. Many of these pollutants are on the list of chemicals published by the State of California as known to cause cancer, birth defects, and/or developmental or reproductive harm.[3] Discharges of polluted storm water pose carcinogenic and reproductive toxicity threats to the public and adversely affect the aquatic environment.

The Receiving Waters into which the Sycamore Landfill Facility discharges polluted storm water are ecologically sensitive areas. In particular, the San Diego River downstream of the Facility is the lifeblood for a tremendous diversity of plant and animal species. Although pollution and habitat destruction have drastically diminished once-abundant and varied habitats which depend on the San Diego River, the Receiving Waters are still essential habitat for dozens of fish, bird, mammal, and reptile species. In fact, sections of the San Diego River immediately downstream of the Facility provides essential habitat for numerous "sensitive species" of birds, bats, mammals, reptiles, amphibians, plants, and invertebrates.[4] This section of the River also provides key habitat linkages to the east and west, allowing species to move freely between "core resource" areas.[5] A large portion of this same area where the San Diego River flows through Mission Gorge is designated as Critical Habitat by the U.S. Fish and Wildlife Service. It is home to the federally endangered least Bell's vireo, as well as numerous sensitive species included in

[3] Health & Saf. Code §§ 25249.5 - 25249.1.
[4] Mission Trail Regional Park Master Plan Update, Feb. 2019, § 3.1.16, *available at* https://www.sandiego.gov/sites/default/files/mtrp_mpu_feb2019_web.pdf
[5] *Id.*

the Multiple Species Conservation Program ("MSCP") including: mule deer, mountain lion, golden eagle, California gnatcatcher, and several bat species.[6] Storm water and non-storm water contaminated with pathogens, sediment, heavy metals, and other pollutants discharged from the Sycamore Landfill Facility are deleterious to invertebrates, insects, larval fish, and local vegetation in Mission Gorge and the San Diego River Valley. As such, these pollutant discharges degrade the special biological significance of the area and strain the ecosystems on which numerous species, many of which are categorized as endangered or sensitive, depend for survival.

The polluted discharges from the Facility harm the special aesthetic and recreational significance of the Receiving Waters, adversely impacting the public's ability, as well as that of Coastkeeper's and CERF's members, to use and enjoy these unique waterbodies. The San Diego River immediately downstream from the Facility runs through Mission Trails Regional Park, one of the largest municipally owned parks in the United States, and among the most popular outdoor recreation destinations in the San Diego region. There are almost ten miles of trails in the Mission Gorge area of the park, many of which parallel or cross the San Diego River, and offer recreational opportunities to observe unique habitat and animal life. Members of the public, including members of Coastkeeper and CERF, also enjoy picnicking, hiking, mountain biking, rock climbing, fishing, and aquatic activities such as paddle boarding and kayaking in numerous designated recreational areas along the San Diego River, some of which extend to the Pacific Ocean.[7] Pollutants discharged from the Sycamore Landfill Facility affect the health of the Receiving Waters, and thus the plant and animal life of the surrounding habitats. Damage to these natural habitats, and thus the flora and fauna within them, harms the ability of the public, including members of Coastkeeper and CERF, to use and enjoy the unique recreational opportunities offered by the Receiving Waters. Furthermore, Coastkeeper's and CERF's members are less likely to recreate in and around waters known to be polluted with pathogens such as E. coli and fecal coliform, excessive nutrients, and toxic metals such as lead, copper, and zinc.

The Regional Board issued the *Water Quality Control Plan for the San Diego Basin* ("San Diego Basin Plan" or "Basin Plan"). The Basin Plan identifies the "Beneficial Uses" of water bodies in the region. The Beneficial Uses for the San Diego River downstream of the Sycamore Landfill Facility's point of discharge include: Contact Water Recreation, Non-Contact Water Recreation, Warm Freshwater Habitat, Wildlife Habitat, Preservation of Biological Habitats of Special Significance, Rare, Threatened, or Endangered Species, Agricultural Supply, and Industrial Service Supply. Basin Plan, Table 2-2.

According to the 2016 303(d) List of Impaired Water Bodies, the lower reach of the San Diego River is impaired for benthic community effects, cadmium, indicator bacteria (enterococcus), nitrogen, low dissolved oxygen, phosphorus, total dissolved solids, and toxicity.[8]

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[6] *Id.* § 3.4.3.
[7] *See id.* § 3.4.5.
[8] 2016 Integrated Report – All Assessed Waters, *available at http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2012.shtml* (last accessed on May 3, 2017.)

In addition, the Pacific Ocean Shoreline at the San Diego River outlet at Dog Beach is impaired for indicator bacteria.

2. THE SYCAMORE LANDFILL FACILITY AND RELATED DISCHARGES OF POLLUTANTS

2.1. The Facility Site Description and Industrial Activities.

According to the Owners and/or Operators of the Sycamore Landfill Facility, the Facility primarily engages in the landfilling of non-hazardous municipal solid waste at the Sycamore Landfill. 2016 SWPPP § 2.1.3.1. The Facility SWPPPs state that hauling trucks transporting waste are checked at the scale house, and waste is thereafter transported via hauling vehicles to the active disposal site of the landfill. The SWPPPs also state that "small amounts of household hazardous waste are intercepted during random inspections that are either returned to the generator or are stored in the on-site hazardous waste storage lockers for proper disposal." *Id.*

According to the Facility SWPPPs, other industrial operations at the Facility include vehicle and equipment maintenance, hazardous material storage, green waste recycling, scrap metal storage and recycling, leachate storage and pumping, vehicle fueling, operation of a landfill gas flare station, storage of treated wood waste, other dust and particulate control activities, and application of soil and slope stabilization products such as mulch, green waste, and hydroseeding. *Id.* §§ 2.1.3.2-3. Information available to Coastkeeper and CERF indicates that the Facility also accepts and disposes of the following waste streams: treated wood, dewatered sludge, dredged sediments, landfill leachate and condensate, contaminated soils, and other special wastes such as auto shredder waste, treated medical wastes, shredded tires, and dead animals. Order R9-2018-0069 §§ C.4-9; Order R9-2018-0069 Information Sheet § I at C-11. The Facility also conducts chipping and grinding operations. Order R9-2018-0069 § D.

According to the Facility SWPPPs industrial materials associated with operations at the Sycamore Landfill Facility include: hazardous waste, municipal solid waste, contaminated waste sediment, leachate, anti-freeze, motor oil, transmission fluid, hydraulic fluid, grease, methane, landfill gas condensate, propane, diesel, recyclable materials, treated wood waste, solvents, old batteries, and trash. 2016 SWPPP §§ 2.1-2.9; Tables 2.1.a-c; Table 2-2. Furthermore, information available to SDCK and CERF indicates that the Facility regularly handles biosolids such as sludge and dewatered sewage, auto shredder waste, and green waste.

According to the Facility SWPPPs the areas of industrial activity at the Facility include: the active part of the landfill; equipment maintenance area; vehicle parking area; fueling station; flare station; hazardous materials locker; scrap metal storage area; oxygen, acetylene, nitrogen gas storage area; two leachate collection and storage areas; green waste recycling areas; numerous roads to transport various types of waste; and three extended detention basins. *Id.* at § 2.1.4. Information available to Coastkeeper and CERF indicates that the Sycamore Landfill Facility further contains areas specifically designated for chipping and grinding operations, and treated wood disposal.

Information available to Coastkeeper and CERF indicates that these industrial activities occur at various locations throughout the Facility either outdoors, or without adequate cover to prevent storm water and non-storm water exposure to pollutant sources. While the SWPPPs indicate the Facility has incorporated some secondary containment measures, the Facility does not entirely prevent polluted storm water and non-storm water from discharging from the facility. Further, information available to Coastkeeper and CERF indicates that the pollutants associated with the facility have been and continue to be tracked extensively throughout the site, as well as on and off the Facility through ingress and egress. This results in trucks and vehicles tracking trash, pathogens, nutrient pollutants, sediment, dirt, O&G, metal particles, and other pollutants off-site. The resulting illegal discharges of polluted storm water and non-storm water impact Coastkeeper's and CERF's members' use and enjoyment of the Receiving Waters by degrading the quality of those waters, and by posing risks to human wellbeing, aquatic life, and ecosystem health.

2.2. <u>Pollutants and Pollutant Sources Related to the Facility's Industrial Activities</u>.

Despite the activities and pollutant sources listed above, the Sycamore Landfill Facility SWPPPs identify only the following pollutants: oil and grease ("O&G"), pH affecting substances, total suspended solids ("TSS"), iron, enterococcus, fecal coliform, gasoline and diesel fuels, grindings, sediment, trace metals, hydrocarbons, "gross pollutants," "waste products," leachate, and "varies." 2016 SWPPP, Tables 2.1.a-b; Table 3.5.

Information available to Coastkeeper and CERF indicates that pollutants commonly present in storm water discharged from facilities similar to the Sycamore Landfill include: pathogens such as enterococcus, E. coli, and fecal coliform; excessive nutrients such as ammonia as nitrogen, nitrite, nitrate, total nitrogen and phosphorus; metals such as aluminum, lead, zinc, manganese, selenium, copper, and iron; dissolved oxygen; α-Terpineol; Benzoic acid; p-Cresol; Phenol turbidity; and total dissolved solids, among others. For example, the Clean Water Act regulations found in 40 C.F.R. Part 445 – Landfills Point Source Category, Subpart B RCRA Subtitle D Non-Hazardous Waste Landfill ("Subchapter N") require facilities designated as solid waste (i.e., non-hazardous materials) landfills to monitor "contaminated storm water" for BOD, TSS, Ammonia (as N), α-Terpineol, Benzoic acid, p-Cresol, Phenol, and Zinc, indicating that these pollutants are commonly present at municipal solid waste landfills. *See* 40 C.F.R. § 445.1-3, 40 C.F.R. § 445.20-23.

As previously noted, the Sycamore Landfill Facility regularly handles "treated wood, dewatered sludge, dredged sediments, landfill leachate and condensate, contaminated soils, and special wastes" such as auto shredder waste, treated medical wastes, shredded tires, and dead animals. Order R9-2018-0069, Information Sheet, § I at C-11. "[T]reated and untreated sludge can contain high concentrations of toxic metals and significant amounts of toxic organic pollutants and pathogens." Basin Plan at 4-74. Sludge also contains nitrogen, phosphorus, iron, zinc, bacteria, viruses, other disease causing organisms, and toxic chemicals from household, commercial, and manufacturing activities. *Id.* Auto shredder waste typically includes cadmium, total and hexavalent chromium, lead, copper, mercury, nickel, zinc, and PCBs, which cause auto shredder waste to be classified as hazardous. *Id.* at 4-75. Leachate is "formed when rain water

filters through wastes placed in a landfill. When this liquid comes in contact with buried wastes, it leaches, or draws out, chemicals or constituents from those wastes."[9] Leachate typically contains high concentrations of bacteria, calcium, chloride, iron, lead, magnesium, manganese, potassium, sodium, zinc, mercury, arsenic, and humic and fulvic acids, among other pollutants. Treated wood waste contains hazardous chemicals that pose a risk to human health and the environment such as arsenic, chromium, copper, creosote, and pentachlorophenol.[10] Shredded tires can leach certain pollutants, particularly heavy metals and chemicals, into surrounding soil and groundwater. Tires typically contain aluminum, copper, cadmium, iron, chromium, magnesium, sulfur, selenium, manganese, molybdenum, zinc, 2-mercaptobenzothiazole, and polyaromatic hydrocarbons.[11] Order R9-2018-0069 states that the Landfill may accept contaminated soils containing "petroleum hydrocarbons, organic and inorganic compounds, metals, and pesticides which could pose a threat to water quality if discharged in an uncontrolled manner." Order R9-2018-0069 § C.8.d.

As described in greater detail in Sections 3.5.3 and 3.6.3, *infra*, the Sycamore Landfill Facility SWPPPs have failed and continue to fail to include an adequate description of potential pollutant sources, an adequate pollutant source assessment, and the Owner and/or Operators have failed and continue to fail to monitor for these pollutants as required by the Permit.

2.3. Sycamore Landfill Facility Storm Water Flow and Discharge Locations.

The Sycamore Landfill Facility Owner and/or Operator reports that the Facility consists of three drainage areas, Drainage Areas 1, 2, and 3 ("DA-1," "DA-2", and "DA-3" respectively). The Facility SWPPPs state that "topography of the facility slopes to direct surface water flow into the four existing sedimentation basins and the one detention basin." 2016 SWPPP § 2.1.5. However, the site maps, as well as the more detailed subsections of the SWPPPs, only identify three extended detention basins, and no other detention or sedimentation basins.

According to the 2016 SWPPP, DA-1 is a large drainage area which encompasses the eastern area of the property, including the active face of the landfill. Within DA-1 there is also a maintenance area, hazardous materials and hazardous waste storage, various aboveground storage tanks ("ASTs"), the maintenance trailer, mobile fueling truck parking, emergency generator, a 5,000 gallon odor control AST, energy dissipation, trash dumpster, scrap metal storage area, treated wood dumpster area, a 5,000 gallon leachate AST, and a compressed gas storage area. 2016 SWPPP § 2.1.5. According to the Facility SWPPPs, storm water from DA-1 is "directed from north to south through grading and channeling towards Extended Detention Basin 1" ("EDB-1"). *Id.* Nine storm drains are located along the southern border of DA-1 and direct water towards a channel which discharges into EDB-1. The SWPPP claims that "[a]ll stormwater

[9] *See* EPA Website regarding municipal solid waste landfills, *available at* https://www.epa.gov/landfills/municipal-solid-waste-landfills.
[10] California Department of Toxic Substance Control, Treated Wood Waste, *available at* https://dtsc.ca.gov/toxics-in-products/treated-wood-waste/ (accessed June 10, 2019).
[11] Miller, Renee. "Environmental Effects of Rubber Mulch." SF Gate, *available at* http://homeguides.sfgate.com/environmental-effects-rubber-mulch-47748.html. (accessed June 10, 2019).

in DA-1 is retained within [EDB-1]. Stormwater is skimmed off the top of the basin and is used as dust suppressant on site." *Id.*

Information available to Coastkeeper and CERF indicates that some storm water from DA-1 has discharged from the Facility along the eastern boundary and was not successfully diverted to EDB-1. Further, information available to Coastkeeper and CERF indicates that not all storm water that reaches EDB-1 is successfully retained, and thus some storm water is discharged from EDB-1 from time to time, for example following heavy rainfalls or multiple rainfall events, such as those that occurred in February 2019. For example, the Facility's September 2016 Exceedance Response Action Level 1 Evaluation and Report ("2016 Level 1 ERA Report") acknowledged that that the Facility's "sedimentation basins" in DA-1 and DA-2 "are designed to reduce sediment in discharge. Basins overflow to the Sycamore Canyon riparian area . . .." 2016 Level 1 ERA Report § 7.

Additionally, although the Facility site map indicates that all storm water within DA-1 is routed to EDB-1, information available to Coastkeeper and CERF indicates that storm water from a significant portion of the northern and western areas of DA-1 flows down an internal road and other slopes, and into DA-2. As the Facility SWPPPs and various ERA reports acknowledge, storm water from DA-2 is diverted through Extended Detention Basins 2 and 3 ("EDB-2" and "EDB-3" respectively), and is thereafter discharged from the Facility once EDB-2 and EBD-3 had reached capacity.

According to the Facility SWPPPs and site maps, DA-2 is located along the western side of the property and includes an outdoor staging area, scale and office, cofferdams, pump, water ASTs, a trash dumpster, and the green waste recycling area. 2016 SWPPP § 2.1.5. "Hanson Aggregates has active mining in DA-2 but is discussed in a separate SWPPP maintained by Hanson Aggregates." *Id.* Storm water within DA-2 is directed from north to south into EDB-2, and overflow storm water from EDB-2 flows into EDB-3. "Storm water is then discharged to Little Sycamore Canyon Creek, which ultimately discharges to the San Diego River." *Id.*

According to the Facility SWPPPs and site maps, DA-3 encompasses the most southeastern portion of the Facility, and includes a water AST, a 5,000-gallon condensate AST, two 12,000 gallon water ASTs, a 12,000 gallon red dye AST, and an infiltration trench located along the Facility ingress/egress road. *Id.* "Storm water in this area flows from east to west and then southwards towards the Facility main entrance/exit road." "Four storm drains direct storm water to the infiltration trench where it is then directed out towards Little Sycamore Canyon Creek and SYC-1." *Id.*

3. VIOLATIONS OF THE CLEAN WATER ACT AND THE STORM WATER PERMIT

In California, any person who discharges storm water associated with certain industrial activity must comply with the terms of the Storm Water Permit in order to lawfully discharge pollutants. *See* 33 U.S.C. §§ 1311(a), 1342; 40 C.F.R. § 122.26(c)(1).

Between 1997 and June 30, 2015, the Storm Water Permit in effect was Order No. 97-03-DWQ, which Coastkeeper and CERF refer to as the "1997 Permit." On July 1, 2015, pursuant to Order No. 2014-0057-DWQ the Storm Water Permit was reissued, which Coastkeeper and CERF refer to as the "2015 Permit." As explained below, the 2015 Permit includes terms that are as stringent or more stringent than the 1997 Permit. Accordingly, the Sycamore Landfill Facility Owner and/or Operator is liable for violations of the 1997 Permit and ongoing violations of the 2015 Permit, and civil penalties and injunctive relief are available remedies. *See Illinois v. Outboard Marine, Inc.*, 680 F.2d 473, 480-81 (7th Cir. 1982) (relief granted for violations of an expired permit); *Sierra Club v. Aluminum Co. of Am.*, 585 F. Supp. 842, 853-54 (N.D.N.Y. 1984) (holding that the Clean Water Act's legislative intent and public policy favor allowing penalties for violations of an expired permit); *Pub. Interest Research Group of N.J. v. Carter-Wallace, Inc.*, 684 F. Supp. 115,121-22 (D.N.J. 1988) ("[l]imitations of an expired permit, when those limitations have been transferred unchanged to the newly issued permit, may be viewed as currently in effect").

3.1. Unauthorized NSWDs from the Facility in Violation of Storm Water Permit Discharge Prohibition.

Except as authorized by Special Conditions under Section D.1 of the 1997 Permit, Discharge Prohibition A.1 prohibits permittees from discharging materials other than storm water ("non-storm water discharges" or "NSWDs") either directly or indirectly to waters of the United States. The 2015 Permit includes the same discharge prohibition. 2015 Permit § III.B. Prohibited NSWDs must be either eliminated or permitted by a separate NPDES permit. 1997 Permit § A.1; 2015 Permit § III.B.

Information available to Coastkeeper and CERF indicates that unauthorized NSWDs occur at the Facility, and the Facility has failed to develop and/or implement adequate BMPs necessary to prevent these discharges. For example, Section 2.6 of the 2016 SWPPP notes that a "water truck is used at the landfill to minimize dust and particulate generation." Section 2.1.4 of the 2016 SWPPP also acknowledges that that Facility contains "cleaning and rinsing areas" without further details regarding these areas. While Section 3.1.1 of the Facility SWPPPs purport to implement measures to "[p]revent disposal of any rinse/wash waters or industrial materials into the stormwater conveyance system," these SWPPPs fail to identify any specific BMPs meant to prevent NSWDs from these and other Facility activities from commingling and discharging from the Facility. Therefore, the Facility Owner and/or Operator's assertion that "[t]here are no activities at this site that may result in unauthorized non-stormwater discharges" is erroneous, and in violation of the Storm Water Permit. *See id.* § 2.4.

NSWDs resulting from dust suppression are not sources that are listed among the authorized NSWDs in Special Conditions of the Storm Water Permit, and are thus always prohibited. Moreover, the 2016 SWPPP concedes that no NSWDs are authorized at the Facility. 2016 SWPPP § 2.10. Thus, the 2016 Facility SWPPP is inaccurate and in violation of the Storm Water Permit.

Coastkeeper and CERF put the Sycamore Landfill Facility Owner and/or Operator on notice that the Storm Water Discharge Prohibition is violated each time unauthorized non-storm water is discharged from the Sycamore Landfill Facility. *See* 1997 Permit § D.1; *see also* 2015 Permit § III.B. These Discharge Prohibition violations are ongoing and will continue until the Sycamore Landfill Facility Owner and/or Operator develops and implements BMPs that prevent prohibited unauthorized NSWDs, or obtains separate NPDES permit coverage. Each time the Sycamore Landfill Facility Owner and/or Operator discharges prohibited non-storm water in violation of the Storm Water Permit's Discharge Prohibitions is a separate and distinct violation of the Storm Water Permit and section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). The Sycamore Landfill Facility Owner and/or Operator has been in violation since August 26, 2014, and Coastkeeper and CERF will update the number and dates of violations when additional information becomes available. The Sycamore Landfill Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since August 26, 2014.

3.2. Discharges of Polluted Storm Water from the Facility in Violation of Storm Water Permit Discharge Prohibitions.

Section III of the 2015 Permit enumerates several Discharge Prohibitions. Section III.D of the 2015 Permit states that "[d]ischarges that violate any discharge prohibitions contained in applicable Regional Water Board Water Quality Control Plans (Basin Plans), or statewide water quality control plans and policies are prohibited." The San Diego Basin Plan designates beneficial uses for water bodies in the San Diego region and establishes water quality objectives and implementation plans to protect those beneficial uses.[12] The San Diego Basin Plan further establishes certain Waste Discharge Prohibitions.[13] Waste Discharge Prohibition number 5 of the San Diego Basin Plan states, "the discharge of waste to inland surface waters, except in cases where the quality of the discharge complies with the applicable receiving water quality objectives, is prohibited. Allowances for dilution may be made at the discretion of the Regional Board."[14] "Waste" is defined as, "waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation," which includes discharges of pollutants in storm water.[15] Accordingly, where the "quality of the discharge" does not meet water quality objectives, the discharge, absent an express "allowance for dilution" by the San Diego Regional Board, is prohibited by Discharge Prohibition III.D of the 2015 Permit. Section B.4 of Regional Board Order No. R9-2018-0069 governing the waste discharge requirements for the Sycamore Landfill likewise prohibits: "[t]he discharge of waste to inland surface waters, except in cases where the quality of the discharge complies with applicable receiving water quality objectives and as authorized by the San Diego Water Board."

Information available to Coastkeeper and CERF, including their review of publicly available information and observations, indicates that no express allowance for dilution has been

[12] See https://www.waterboards.ca.gov/sandiego/water_issues/programs/basin_plan/ for updated Basin Plan.
[13] San Diego Basin Plan, Chapter 4, page 4-19.
[14] San Diego Basin Plan, Chapter 4, page 4-20 (Waste Discharge Prohibition 5).
[15] California Water Code, § 13050(d) (emphasis added).

granted by the Regional Board applicable to the Sycamore Landfill Facility's discharges, or to the downstream Receiving Waters. As such, and consistent with Coastkeeper and CERF's review of available information and direct observations, the analytical results of storm water sampling at the Facility demonstrate that the Sycamore Landfill Facility Owner and/or Operator has violated and continues to violate Discharge Prohibition III.D of the 2015 Permit by discharging pollutants in excess of Water Quality Objectives listed in the San Diego Basin Plan. The table attached hereto as Exhibit 1 includes sample results of storm water discharges collected and analyzed by the Facility. As demonstrated by the data in Exhibit 1, the Sycamore Landfill Facility Owner and/or Operator has discharged pollutants in storm water in exceedance of the Basin Plan water quality objectives. For example, storm water discharged from the Facility has exceeded the Basin Plan Water Quality Objective for iron. The Facility's monitoring data indicates that for almost every sample collected and analyzed since March 4, 2014, the Facility discharged storm water containing concentrations of iron above 1.0 mg/L, the Basin Plan Water Quality Objective for the San Diego River downstream from the Facility. *See* Basin Plan, Table 3-2.

The Storm Water Permit Discharge Prohibitions further prohibit storm water discharges and authorized NSWDs which cause or threaten to cause pollution, contamination, or nuisance as defined in Section 13050 of the California Water Code. 1997 Permit § A.2; 2015 Permit § III.C. Section B.1 of the Regional Board Order No. R9-2018-0069 contains this same discharge prohibition. The California Water Code defines "contamination" as "an impairment of the quality of the waters of the state by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease." "Pollution" is defined as "an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects . . . [t]he waters for beneficial uses."

Information available to Coastkeeper and CERF, including Republic's own storm water monitoring data and other publicly available information, indicates that the Sycamore Landfill Facility has discharged, and continues to discharge, numerous pollutants in concentrations that cause or threaten to cause pollution, contamination, or nuisance in and around Receiving Waters. For example, the Sycamore Landfill Facility's own monitoring data shows that on numerous occasions during the past five years, the Facility has discharged iron, TSS, and nitrate + nitrite ("N+N"), in excess of various water quality objectives, benchmarks and other standards which were promulgated to protect human health and the environment, as well as the Beneficial Uses of Receiving Waters. *See* Ex. 1. As such, the Sycamore Landfill Facility's discharges of polluted storm water have violated the Storm Water Permit's Discharge Prohibition III.C.

Coastkeeper and CERF put the Sycamore Landfill Facility Owner and/or Operator on notice that the Storm Water Permit Discharge Prohibition is violated each time storm water discharges from the Facility. *See* Exhibit 2 (setting forth dates of all precipitation events during the past five years).[16] These Discharge Prohibition violations are ongoing and will continue

[16] Exhibit 2 includes the dates of all precipitation events recorded during the past five years, and the corresponding quantity of precipitation for each such event. The data in Exhibit 2 was recorded by the National Oceanic & Atmospheric Administration at the weather monitoring station geographically nearest to the Facility with complete

every time the Sycamore Landfill Facility Owner and/or Operator discharges polluted storm water in violation of Discharge Prohibitions III.C or III.D of the 2015 Permit. Each time the Sycamore Landfill Facility Owner and/or Operator discharges polluted storm water in violation of Discharge Prohibitions III.C or III.D of the 2015 Permit is a separate and distinct violation of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). The Sycamore Landfill Facility Owner and/or Operator has been in violation since August 26, 2014, and Coastkeeper and CERF will update the dates of violations when additional information and data become available. The Sycamore Landfill Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since August 26, 2014.

Further, Coastkeeper and CERF put the Sycamore Landfill Facility Owner and/or Operator on notice that Discharge Prohibitions III.C and III.D are independent Storm Water Permit requirements that must be complied with, and that carrying out the iterative process triggered by exceedances of the Numeric Action Levels ("NALs") listed at Table 2 of the 2015 Permit does not amount to compliance with the Discharge Prohibition provisions. The NALs do not represent Basin Plan water quality objectives. Thus, even if the Facility Owner and/or Operator is engaged in the NAL iterative process and submitted an Exceedance Response Action Plan(s) under Section XII of the 2015 Permit, the violations of the Discharge Prohibitions described in this Notice Letter are ongoing and continuous.

3.3. Discharges of Polluted Storm Water from the Facility in Violation of Storm Water Permit Effluent Limitation.

Effluent Limitation B.3 of the 1997 Permit requires dischargers to reduce or prevent pollutants associated with industrial activity in storm water discharges through implementation of BMPs that achieve Best Available Technology Economically Achievable ("BAT") for toxic and non-conventional pollutants and Best Conventional Pollutant Control Technology ("BCT") for conventional pollutants. The 2015 Permit includes the same Effluent Limitation provision. 2015 Permit § V.A.

The EPA's NPDES Storm Water Multi-Sector General Permit for Industrial Activities ("MSGP") includes numeric benchmarks for pollutant concentrations in storm water discharges ("EPA Benchmarks"). EPA Benchmarks are relevant and objective standards for evaluating whether a permittee's BMPs achieve compliance with BAT/BCT standards as required by Effluent Limitation B.3 of the 1997 Permit and Effluent Limitation V.A of the 2015 Permit.[17] As such, discharges from an industrial facility containing pollutant concentrations that exceed EPA Benchmarks indicate that the facility has not developed and/or implemented BMPs that meet BAT for toxic pollutants and BCT for conventional pollutants.[18]

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precipitation records. Coastkeeper and CERF will include additional dates of rain events when that information becomes available.

[17] *See United States Environmental Protection Agency (EPA) National Pollutant Discharge Elimination System (NPDES) Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (MSGP) Authorization to Discharge Under the National Pollutant Discharge Elimination System*, as modified effective February 26, 2009, Fact Sheet at 106; *see also* 65 Federal Register 64839 (2000).

[18] *Santa Monica Baykeeper v. Kramer Metals, Inc.*, 619 F.Supp.2d 914 (C.D. Cal. 2009).

Information available to Coastkeeper and CERF, including their review of publicly available information and observations, indicates that BMPs that achieve BAT/BCT have not been developed and/or implemented at the Sycamore Landfill Facility. Consistent with Coastkeeper and CERF's review of available information and direct observations, the Sycamore Landfill Facility's storm water monitoring data demonstrates that Facility discharges have repeatedly exceeded EPA Benchmarks for multiple pollutants, indicating that the Facility has failed and continues to fail to develop and/or implement BMPs as required to achieve compliance with the BAT/BCT standards. For example, the Facility's own monitoring data reflects that multiple storm water samples repeatedly exceeded the EPA Benchmarks for TSS of 100 mg/L, iron of 1.0 mg/L, and N+N of 0.68 mg/L. Ex. 1.

In addition, Subchapter N requires facilities designated as Landfills to monitor "contaminated storm water," defined as storm water that has come into contact with landfill wastes, waste handling and treatment areas, or landfill wastewater, and sample such "contaminated storm water" for BOD, TSS, Ammonia (as N), α-Terpineol, Benzoic acid, p-Cresol, Phenol, Zinc, and pH. *See* 40 C.F.R. § 445.1-3, 40 C.F.R. § 445.20-23. The 2016 SWPPP acknowledges that the Facility is "subject to Subchapter N ELGs Category 445, Landfills as a Point Source Category." 2016 SWPPP § 2.1.2. Compliance with the effluent limitations set forth in Subchapter N "constitutes compliance with the technology standard of [BAT/BCT]." Industrial General Permit Fact Sheet § J.5.

As discussed in section 3.6.3, *infra*, information available to Coastkeeper and CERF indicates that the Sycamore Landfill Facility Owner and/or Operator has failed and continues to fail to analyze storm water discharged from the Facility for numerous pollutants, including Subchapter N parameters, that result from the Facility's industrial operations. As such, in addition to TSS, iron, and N+N, the Facility likely discharges numerous pollutants in concentrations exceeding EPA benchmarks, indicating that the Facility has failed to develop and/or implement BMPs as required to achieve compliance with the BAT/BCT standards.

Coastkeeper and CERF put the Sycamore Landfill Facility Owner and/or Operator on notice that the Storm Water Permit Effluent Limitation is violated each time storm water discharges from the Facility. *See* Ex. 2. These discharge violations are ongoing and will continue every time the Sycamore Landfill Facility Owner and/or Operator discharges polluted storm water without developing and/or implementing BMPs that achieve compliance with the BAT/BCT standards. Each time the Sycamore Landfill Facility Owner and/or Operator discharges polluted storm water in violation of Effluent Limitation B.3 of the 1997 Permit and Effluent Limitation V.A of the 2015 Permit is a separate and distinct violation of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). The Sycamore Landfill Facility Owner and/or Operator has been in violation since August 26, 2014, and Coastkeeper and CERF will update the dates of violations when additional information and data become available. The Sycamore Landfill Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since August 26, 2014.

Further, Coastkeeper and CERF put the Facility Owner and/or Operator on notice that the 2015 Permit Effluent Limitation V.A is an independent requirement that must be complied with, and that carrying out the iterative process triggered by exceedances of the NALs listed at Table 2 of the 2015 Permit does not amount to compliance with Effluent Limitation V.A. Exceedances of the NALs demonstrate that a facility (such as the Sycamore Landfill Facility) is among the worst performing facilities in the State. Moreover, the NALs do not represent technology-based criteria relevant to determining whether an industrial facility has implemented BMPs that achieve BAT/BCT. Thus, even if the Sycamore Landfill Facility Owner and/or Operator is engaged in the NAL iterative process and submitted an Exceedance Response Action Plan(s) under Section XII of the 2015 Permit, the violations of Effluent Limitation V.A described in this Notice Letter are ongoing and continuous.

3.4. Discharges of Polluted Storm Water from the Facility in Violation of Storm Water Permit Receiving Water Limitations.

Receiving Water Limitation C.2 of the 1997 Permit prohibits storm water discharges and authorized NSWDs that cause or contribute to an exceedance of an applicable Water Quality Standard ("WQS").[19] The 2015 Permit includes the same receiving water limitation. 2015 Permit § VI.A. Discharges that contain pollutants in excess of applicable WQSs violate the Storm Water Permit Receiving Water Limitations. 1997 Permit § C.2; 2015 Permit § VI.A.

Receiving Water Limitation C.1 of the 1997 Permit prohibits storm water discharges and authorized NSWDs to surface water that adversely impact human health or the environment. The 2015 Permit includes the same receiving water limitation. 2015 Permit § VI.B. Discharges that contain pollutants in concentrations that exceed levels known to adversely impact aquatic species and the environment constitute violations of the Storm Water Permit Receiving Water Limitation. 1997 Permit § C.1; 2015 Permit § VI.B.

Storm water sampling at the Facility demonstrates that discharges contain concentrations of pollutants that cause or contribute to a violation of an applicable WQS, and thus violate Receiving Water Limitation C.2 of the 1997 Permit and Receiving Water Limitation VI.A of the 2015 Permit. For example, the Sycamore Landfill Facility Owner and/or Operator's own monitoring data indicates that on numerous occasions, storm water discharged from the Facility has exceeded the Basin Plan Water Quality Objective for iron within Hydrological Sub-Areas 7.11 and 7.12. *See* Basin Plan, at 3-14, Table 3-2. The Basin Plan is an applicable WQS under the Storm Water Permit. Thus, discharges from the Sycamore Landfill Facility containing concentrations of pollutants which exceed a WQS, cause and/or contribute to the impairments of

[19] The Basin Plan designates Beneficial Uses for the Receiving Waters. Water quality standards are pollutant concentration levels determined by the state or federal agencies to be protective of designated Beneficial Uses. Discharges above water quality standards contribute to the impairment of Receiving Waters' Beneficial Uses. Applicable water quality standards include, among others, the Criteria for Priority Toxic Pollutants in the State of California, 40 C.F.R. § 131.38 ("CTR"), and water quality objectives in the Basin Plan. Industrial storm water discharges must strictly comply with water quality standards, including those criteria listed in the applicable basin plan. *See Defenders of Wildlife v. Browner*, 191 F.3d 1159, 1166-67 (9th Cir. 1999).

Receiving Waters in violation of the Receiving Water Limitations of the Storm Water Permit. 1997 Permit § C.2; 2015 Permit § VI.A.

Furthermore, as discussed in Section 3.6.3, *infra*, information available to Coastkeeper and CERF indicates that the Sycamore Landfill Facility Owner and/or Operator has failed and continues to fail to analyze storm water discharged from the Facility for numerous pollutants that result from the Facility's industrial operations. As previously noted, the Sycamore Landfill Facility accepts and disposes of sludge, and operates a complex leachate collection and removal system. Sludge contains nitrogen, phosphorus, iron, zinc, bacteria, viruses, and other disease causing organisms. Basin Plan at 4-74. Leachate typically contains high concentrations of bacteria, calcium, chloride, iron, lead, magnesium, manganese, potassium, sodium, zinc, mercury, arsenic, and humic and fulvic acids, among other pollutants. As such, the Sycamore Landfill Facility likely discharges many of these pollutants, including indicator bacteria, nitrogen, phosphorus, and numerous toxic metals, in concentrations exceeding WQSs.

As explained herein, the Receiving Waters are impaired, and thus unable to support their designated Beneficial Uses, for some of the same pollutants discharged by the Facility. According to the 2016 303(d) List of Impaired Water Bodies, the lower reach of the San Diego River downstream of the Facility and into which Facility discharges flow is impaired for indicator bacteria, nitrogen, phosphorus, and toxicity among things. Thus, the Facility's discharges of pollutants, which likely contain concentrations of bacteria, nitrogen, phosphorus, and toxic metals in excess of Basin Plan Objectives, cause and/or contribute to the indicator bacteria, nitrogen, phosphorus, and toxicity impairments of the San Diego River.

Discharges of elevated concentrations of pollutants in the Facility's storm water also adversely impact human health. These harmful discharges from the Facility are also violations of the Storm Water Permit Receiving Water Limitations. *See* 1997 Permit § C.1; 2015 Permit § VI.B.

Coastkeeper and CERF put the Sycamore Landfill Facility Owner and/or Operator on notice that Storm Water Permit Receiving Water Limitations are violated each time polluted storm water discharges from the Facility. *See* Ex. 2. Each time discharges of storm water from the Facility cause and/or contribute to a violation of an applicable WQS, it is a separate and distinct violation of Receiving Water Limitation C.2 of the 1997 Permit, Receiving Water Limitation VI.A of the 2015 Permit, and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). Each time discharges of storm water from the Facility adversely impact human health or the environment, it is a separate and distinct violation of Receiving Water Limitation C.1 of the 1997 Permit, Receiving Water Limitation VI.B of the 2015 Permit, and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). These discharge violations are ongoing and will continue every time contaminated storm water is discharged in violation of the Storm Water Permit Receiving Water Limitations. The Sycamore Landfill Facility Owner and/or Operator has been in violation since August 26, 2014, and Coastkeeper and CERF will update the dates of violation when additional information and data becomes available. The Sycamore Landfill Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since August 26, 2014.

Further, Coastkeeper and CERF put the Facility Owner and/or Operator on notice that Receiving Water Limitations are independent Storm Water Permit requirements that must be complied with, and that carrying out the iterative process triggered by exceedances of the NALs listed at Table 2 of the 2015 Permit does not amount to compliance with the Receiving Water Limitations. The NALs do not represent water quality based criteria relevant to determining whether an industrial facility has caused or contributed to an exceedance of a WQS, or is causing adverse impacts to human health or the environment. Thus, even if the Facility Owner and/or Operator is engaged in the NAL iterative process and submitted an Exceedance Response Action Plan(s) under Section XII of the 2015 Permit, the violations of the Receiving Water Limitations described in this Notice Letter are ongoing and continuous.

3.5. Failure to Develop, Implement, and/or Revise an Adequate Storm Water Pollution Prevention Plan.

The Storm Water Permit requires permittees to develop and implement a Storm Water Pollution Prevention Plan prior to conducting industrial activities. A permittee has an ongoing obligation to revise the SWPPP as necessary to ensure compliance with the Storm Water Permit. The specific SWPPP requirements of the 1997 Permit and the 2015 Permit are set out below.

3.5.1. 1997 Permit SWPPP Requirements.

Section A.1 and Provision E.2 of the 1997 Permit require dischargers to have developed and implemented a SWPPP prior to beginning industrial activities that meets all of the requirements of the 1997 Permit. The objectives of the 1997 Permit SWPPP requirements are to identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm water discharges from the Facility and to implement site-specific BMPs to reduce or prevent pollutants associated with industrial activities in storm water discharges. 1997 Permit § A.2. These BMPs must achieve compliance with the Storm Water Permit's Effluent Limitations and Receiving Water Limitations.

To ensure compliance with the Storm Water Permit, the SWPPP must be evaluated on an annual basis pursuant to the requirements of Section A.9 of the 1997 Permit, and must be revised as necessary to ensure compliance with the Storm Water Permit. 1997 Permit, Sections A.9–10. Sections A.3–10 of the 1997 Permit set forth the requirements for a SWPPP. Among other requirements, the SWPPP must include: a site map showing the facility boundaries, storm water drainage areas with flow patterns, nearby water bodies, the location of the storm water collection, conveyance and discharge system, structural control measures, areas of actual and potential pollutant contact, areas of industrial activity, and other features of the facility and its industrial activities (§ A.4); a list of significant materials handled and stored at the site (§ A.5); a description of potential pollutant sources, including industrial processes, material handling and storage areas, dust and particulate generating activities, significant spills and leaks, NSWDs and their sources, and locations where soil erosion may occur (§ A.6).

Sections A.7–8 of the 1997 Permit require an assessment of potential pollutant sources at the facility and a description of the BMPs to be implemented at the facility that will reduce or prevent pollutants in storm water discharges and authorized NSWDs, including structural BMPs where non-structural BMPs are not effective.

3.5.2. 2015 Permit SWPPP Requirements.

As with the SWPPP requirements of the 1997 Permit, Sections X.A–H of the 2015 Permit require dischargers to have developed and implemented a SWPPP that meets all of the requirements of the 2015 Permit. *See also* 2015 Permit, Appendix 1. The objective of the SWPPP requirements are still to identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm water discharges, and to implement site-specific BMPs to reduce or prevent pollutants associated with industrial activities in storm water discharges. 2015 Permit § X.C.

The SWPPP must include, among other things and consistent with the 1997 Permit, a narrative description and summary of all industrial activity, potential sources of pollutants, and potential pollutants; a site map indicating the storm water conveyance system, points of discharge, direction of flow, areas of actual and potential pollutant contact, nearby water bodies, and pollutant control measures; a description of the BMPs developed and implemented to reduce or prevent pollutants in storm water discharges and authorized NSWDs necessary to comply with the Storm Water Permit; the identification of NSWDs and the elimination of unauthorized NSWDs; the location where significant materials are being shipped, stored, received, and handled, as well as the typical quantities of such materials and the frequency with which they are handled; a description of dust and particulate-generating activities; and the identification of individuals and their current responsibilities for developing and implementing the SWPPP. 2015 Permit §§ X.A–H.

Further, the 2015 Permit requires the discharger to evaluate the SWPPP on an annual basis and revise it as necessary to ensure compliance with the Storm Water Permit. 2015 Permit §§ X.A–B. Like the 1997 Permit, the 2015 Permit also requires that the discharger conduct an annual comprehensive site compliance evaluation that includes a review of all visual observation records, inspection reports and sampling and analysis results; a visual inspection of all potential pollutant sources for evidence of, or the potential for, pollutants entering the drainage system; a review and evaluation of all BMPs to determine whether the BMPs are adequate, properly implemented and maintained, or whether additional BMPs are needed; and a visual inspection of equipment needed to implement the SWPPP. 2015 Permit §§ X.B, XV.

3.5.3. The Sycamore Landfill Facility Owner and/or Operator Has Violated and Continues to Violate the Storm Water Permit SWPPP Requirements.

The Sycamore Landfill Facility Owner and/or Operator has conducted and continues to conduct operations at the Facility with an inadequately developed and/or implemented SWPPP. First, information available to Coastkeeper and CERF indicates that the Facility site map has failed and continues to fail to accurately include all information required by the Storm Water

Permit. The most recent site map publicly available via the SMARTS database is dated December 29, 2015, and was uploaded to the database January 4, 2016. This site map, as well as the Facility SWPPPs, fail to accurately indicate all storm water conveyance systems, points of discharge, and direction of flow. For example, information available to Coastkeeper and CERF indicates that some storm water from DA-1 discharges from the Facility along the eastern boundary and is not successfully diverted to EDB-1. However, all Facility site maps and SWPPPs fail to acknowledge this flow pattern and the discharge of storm water from the eastern side of the Facility, which was extremely close to the active face of the landfill during certain time periods within the past 5 years. Additionally, while the Facility site map indicates that all storm water within DA-1 is routed to EDB-1, and thereafter prevented from discharging, information available to Coastkeeper and CERF indicates that storm water from a significant portion of the northern and western areas of DA-1 flows down an internal road and other slopes, and into DA-2. As the Facility SWPPPs and various ERA reports acknowledge, storm water from DA-2 is diverted through EDB-2 and EDB-3, and is thereafter discharged from the Facility in some instances. Therefore, the Facility's site maps and SWPPPs fail to accurately indicate all drainage areas, storm water conveyance systems, points of discharge, and direction of flow as required by the Storm Water Permit.

Further, information available to Coastkeeper and CERF indicates that not all storm water that reaches EDB-1 is successfully retained, and thus some storm water is discharged from EDB-1 from time to time, for example, following heavy rainfalls or multiple rainfall events, such as those that occurred this past February. For example, the Facility's September 2016 Exceedance Response Action Level 1 Evaluation and Report ("2016 Level 1 ERA Report") acknowledged that that the Facility's "sedimentation basins" in DA-1 and DA-2 "are designed to reduce sediment in discharge [sic]. Basins overflow to the Sycamore Canyon riparian area . . .." 2016 Level 1 ERA Report § 7. As EDB-1 is the only storm water retention basin of any kind within DA-1, this report evidences that it was designed to temporarily hold storm water, not prevent discharges entirely. However, the Facility SWPPPs and site maps fail to acknowledge these discharges in violation of the Storm Water Permit.

The Sycamore Landfill Facility Owner and/or Operator has failed and continues to fail to develop and/or implement a SWPPP that includes an adequate description of potential pollutant sources. For example, the Facility SWPPPs fail to acknowledge several industrial activities taking place at the Facility which are likely pollutant sources. Information available to Coastkeeper and CERF indicates that the Sycamore Landfill Facility engages in the following activities, which are not acknowledged by the Facility SWPPPs: the operation of a chipping and grinding operations,[20] and acceptance and disposal of sludge and dewatered sewage from wastewater treatment plants,[21] dredged sediments,[22] contaminated soils,[23] auto shredder waste,

[20] Order No. R9-2018-0069 § D.
[21] *Id.* § C.5.
[22] *Id.* § C.6.
[23] *Id.* § C.8.

shredded tires, and dead animals.[24] The SWPPPs' failure to identify these industrial activities is a violation of the Storm Water Permit.

The Facility SWPPPs also fail to provide adequate descriptions of those industrial activities which are acknowledged in the SWPPPs. Section X.G.1.a of the 2015 Permit requires dischargers to "ensure the SWPPP *describes* each industrial process including: manufacturing, cleaning, maintenance, recycling, disposal, and any other activities related to the process. The type, characteristics, and approximate quantity of industrial materials used in or resulting from the process shall be included. Areas protected by containment structures and the corresponding containment capacity shall be identified and described." First, both the 2015 and 2016 Facility SWPPPs fail to provide the containment capacity of any retention basins. Second, Sections 2.1.3.1 through 2.1.3.3 provide cursory summaries of certain industrial activities conducted at the Facility, but fail to adequately "*describe* each industrial process," as well as all activities related to each process as required by the Storm Water Permit. Table 2.1.a through Table 2.1c, which list industrial activities, associated industrial materials and pollutants, are even more cursory than the narrative description provided in section 2.1.3. As such, the SWPPPs fail to provide the required *description* of industrial activities in violation of the Storm Water Permit. *See* 2015 Permit § X.G.1.

The Sycamore Landfill Facility Owner and/or Operator has failed and continues to fail to develop and/or implement a SWPPP that includes an adequate pollutant source assessment. Section X.G.2 of the 2015 Permit requires dischargers to "ensure that the SWPPP includes a *narrative* assessment of all areas of industrial activity with potential industrial pollutant sources." This assessment shall include "pollutants likely to be present in industrial storm water discharges and authorized NSWDs," (§ X.G.2.a.ii), "[t]he degree to which the pollutants associated with those materials may be exposed to, and mobilized by contact with, storm water," (§ X.G.2.a.iv), "[t]he direct and indirect pathways by which pollutants may be exposed to storm water or authorized NSWDs," (§ X.G.2.a.v), and "[t]he effectiveness of existing BMPs to reduce or prevent pollutants in industrial storm water discharges and authorized NSWDs," (§ X.G.2.a.vii), among other requirements.

The 2015 and 2016 Facility SWPPPs fail to comply with any of the aforementioned requirements of X.G.2. The only narrative assessment provided in the 2016 SWPPP is an incomplete list of the industrial activities conducted at the Facility, which summarily states "[p]ollutants that can potentially enter stormwater run-off and other discharges draining from the facility include: Sediment (including vehicle traffic), Oil & Grease (waste oil and leaks from equipment); and pH." 2016 SWPPP § 2.9. Section 2.3 of the 2016 SWPPP also states that O&G, TSS, and pH are the only pollutants which could potentially discharge from the Facility. *See* 2016 SWPPP, Table 2.1.a. Both Table 2.1.a and Section 2.9 of the 2016 SWPPP conspicuously fail to acknowledge that iron is present at the Facility as the Facility's own monitoring data reflects that iron is regularly discharged in concentrations exceeding the EPA Benchmark and Basin Plan Water Quality Objectives. Given the activities, operations, and materials present at this Facility as described *supra*, the 2016 SWPPP pollutant source assessment's conclusion that

[24] *Id.* § C.9.

only sediment, O&G, and pH could be discharged from a landfill facility is absurd. As the pollutants identified in the pollutant source assessment are used to determine the parameters for which a Facility samples and analyzes its storm water, the Sycamore Landfill Facility Owner and/or Operator's identification of only these minimum pollutants evidences an intent to circumvent requirements of the Storm Water Permit, and thus avoid analyzing its storm water for all parameters required by the Permit.

Furthermore, the only pollutants identified in Table 2.1.b (Industrial Activities and Associated Materials) of the 2016 SWPPP are O&G, sediment, trace metals, hydrocarbons, and "gross pollutants," without any further description or analysis. Even this woefully inadequate assessment of pollutants acknowledges that multiple metals and "gross pollutants" are present at the Facility, thus undermining the SWPPP's claims, made mere paragraphs prior, that only sediment, O&G, and pH could be present in the Facility's storm water discharges. Table 2.1.a (Industrial Pollutants Identified in the HUC 10 and monitored parameters) of the 2016 SWPPP also acknowledges that enterococcus and fecal coliform are present at the Facility as part of the Facility's industrial activities. While the 2016 SWPPP claims that there is no potential for either enterococcus or fecal coliform to be discharged in the Facility's storm water, information available to Coastkeeper and CERF indicates that these pathogens are regularly discharged by the Facility Owner and/or Operator in exceedance of Basin Plan Water Quality Objectives.

Moreover, the Facility SWPPPs simply fail to identify and assess numerous pollutants likely present in the Facility's storm water discharges. In light of the Facility's landfilling activities and the various waste streams accepted by the Facility, scores of pollutants are likely present at the Sycamore Landfill Facility, as previously explained in Section 2.2, *supra*. However, the Facility SWPPPs fail to assess the vast majority of these pollutants, and thus egregiously violate the Storm Water Permit pollutant source assessment requirements.

The Sycamore Landfill Facility Owner and/or Operator has failed and continues to fail to develop and/or implement a SWPPP that contains BMPs to prevent the exposure of pollutants and pollutant sources to storm water and the subsequent discharge of polluted storm water from the Facility, as required by the Storm Water Permit. This is due in part to the Sycamore Landfill Facility SWPPPs' failure to include adequate site-specific information regarding the BMPs developed and/or implemented at the Facility. For example, Section 3.1 of the 2015 Permit simply states "[a]ll minimum Best Management Practices (BMPs) that are required by the IGP and necessary to meet the facility conditions will be implemented." Thereafter, sections 3.1.1 through 3.1.7 of the 2016 SWPPP largely parrot the 2015 Permit language setting forth minimum BMP requirements. Furthermore, rather than provide site-specific details regarding which BMPs will be implemented at specific facility locations to address specific pollutants, the 2016 SWPPP's BMPs section cites to the generic CASQA Stormwater BMP Handbook Portal for additional BMPs details. 2016 SWPPP § 3.1. Thus, the 2016 SWPPP fails to provide *any* site-specific information regarding how and where such BMPs are implemented, in violation of the Storm Water Permit. *See* 2015 Permit §§ X.A; X.H.

The Facility SWPPPs also fail to adequately analyze the pollutants that each BMP is designed to reduce or prevent from discharging in violation of section X.H.4.a.i of the 2015

Permit. Tables 3.1, 3.3, and 3.4 of the 2016 SWPPP, which identify minimum BMPs, stormwater containment and discharge reduction BMPs, and treatment control BMPs respectively, each fail to indicate which pollutants will be addressed by each BMP. Additionally, Table 3.5, the BMP summary table, also fails to adequately identify the potential pollutants addressed by each BMP. The only potential "pollutants" identified by Table 3.5 are metals, petroleum products, non-hazardous waste, dust and particulates, diesel fuel and condensate, leachate, "varies," and "various." The SWPPP fails to identify the vast majority of pollutants which are commonly present at facilities engaging in landfill operations, such as metals, pathogens, and nutrients, and evidences an intent to circumvent requirements of the Storm Water Permit, and thus avoid analyzing its storm water for required parameters.

The SWPPP's inadequacies are further documented by the continuous and ongoing discharge of storm water containing pollutant levels that exceed EPA Benchmarks and applicable WQSs, which indicate that the Facility's BMPs are failing to meet BAT/BCT requirements. *See, e.g.,* Ex. 1. As the objectives of the Permit's SWPPP requirements are to identify and evaluate sources of pollutants associated with industrial activities, and to implement site-specific BMPs to reduce or prevent pollutants associated with industrial activities in storm water discharges, the Facility SWPPPs' failure to provide adequate descriptions of industrial activities, adequately assess pollutant sources, and implement adequate BMPs, undermines the intent of the Storm Water Permit. *See* 2015 Permit § X.C.

The Sycamore Landfill Facility Owner and/or Operator has also failed to revise the Facility's SWPPP to ensure compliance with the Storm Water Permit. Despite the significant concentrations of pollutants in the Facility's storm water discharges each year, information available to Coastkeeper and CERF indicates that the Facility SWPPP has remained the same since November 2016, and has not been revised to include additional BMPs to eliminate or reduce these pollutants, as required by the Storm Water Permit.

Accordingly, the Sycamore Landfill Facility Owner and/or Operator has failed and continues to fail to adequately develop, implement, and/or revise the Facility SWPPP in violation of SWPPP requirements of the Storm Water Permit. Every day the Facility operates with an inadequately developed and/or implemented SWPPP, and/or with an improperly revised SWPPP is a separate and distinct violation of the Storm Water Permit and the Clean Water Act. The Sycamore Landfill Facility Owner and/or Operator has been in daily and continuous violation of the Storm Water Permit SWPPP requirements since at least August 26, 2014. These violations are ongoing, and Coastkeeper and CERF will include additional violations when information becomes available. The Sycamore Landfill Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since August 26, 2014.

3.6. Failure to Develop, Implement, and/or Revise an Adequate Monitoring and Reporting Program.

The Storm Water Permit requires permittees to develop and implement a storm water monitoring and reporting program ("M&RP") prior to conducting industrial activities. A permittee has an ongoing obligation to revise the M&RP as necessary to ensure compliance with

the Storm Water Permit. The specific M&RP requirements of the 1997 Permit and the 2015 Permit are set out below.

3.6.1. 1997 Permit M&RP Requirements.

Section B.1 and Provision E.3 of the 1997 Permit require facility operators to develop and implement an adequate M&RP prior to the commencement of industrial activities at a facility, that meets all of the requirements of the Storm Water Permit. The primary objective of the M&RP is to detect and measure the concentrations of pollutants in a facility's discharge to ensure compliance with the Storm Water Permit's Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations. *See* 1997 Permit § B2.

The M&RP must therefore ensure that BMPs are effectively reducing and/or eliminating pollutants at the facility, and must be evaluated and revised whenever appropriate to ensure compliance with the Storm Water Permit. *Id.* §§ B.3–16. Dischargers must revise the SWPPP in response to their M&RP observations to ensure that BMPs are effectively reducing and/or eliminating pollutants at the facility. *Id.* § B.4. Sections B.5 and B.7 of the 1997 Permit require dischargers to visually observe and collect samples of storm water from all locations where storm water is discharged.

Sections B.5 and B.7 of the 1997 Storm Water Permit require dischargers to visually observe and collect samples of storm water from all drainage areas and discharge locations where storm water is discharged. Under Section B.5 of the Storm Water Permit, a permittee is required to collect at least two (2) samples from each discharge location at the facility during the Wet Season. Storm water samples must be analyzed for TSS, pH, SC, total organic carbon or O&G, and other pollutants that are likely to be present in the facility's discharges in significant quantities. *Id.* § B.5.c. Finally, permittees must identify and use analytical method detection limits sufficient to determine compliance with the 1997 Permit's monitoring program objectives and specifically, the Effluent Limitations and Receiving Water Limitations. *Id.* § B.10.iii.

3.6.2. 2015 Permit M&RP Requirements.

As with the 1997 M&RP requirements, Sections X.I and XI.A–D of the 2015 Permit require facility operators to develop and implement an adequate M&RP that meets all of the requirements of the 2015 Permit. The objective of the M&RP is still to detect and measure the concentrations of pollutants in a facility's discharge, and to ensure compliance with the 2015 Permit's Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations. 2015 Permit § XI. An adequate M&RP ensures that BMPs are effectively reducing and/or eliminating pollutants at the facility, and is evaluated and revised whenever appropriate to ensure compliance with the Storm Water Permit. *Id.*

As an *increase* in frequency of monitoring requirements, Sections XI.B.1–5 of the 2015 Permit requires permittees to collect storm water discharge samples from a qualifying storm

event[25] as follows: 1) from each drainage area at all discharge locations, 2) from two (2) storm events within the first half of each Reporting Year[26](July 1 to December 31), 3) from two (2) storm events within the second half of each Reporting Year (January 1 to June 30), and 4) within four hours of the start of a discharge, or the start of facility operations if the qualifying storm event occurs within the previous 12-hour period. The 2015 Permit requires, among other things, that permittees must submit *all sampling* and analytical results for all samples via SMARTS within 30 days of obtaining all results for each sampling event. *Id.* § XI.B.11 (emphasis added).

The parameters to be analyzed are also consistent with the 1997 Permit, however, the 2015 Permit no longer requires SC to be analyzed. Sections XI.B.6.a–b of the 2015 Permit requires permittees to analyze samples for TSS, O&G, and pH. Section XI.B.6.c–d of the 2015 Permit requires permittees to analyze samples for all pollutants associated with the Discharger's industrial activities. Specifically, the 2015 Permit requires Facility Owners and/or Operators to sample and analyze parameters on a facility-specific basis that serve as indicators of the presence of all industrial pollutants identified in the pollutant source assessment. *Id.* § XI.B.6.c. Section XI.B.6.e of the 2015 Permit also requires dischargers to analyze storm water samples for additional applicable industrial parameters related to receiving waters with a Clean Water Act Section 303(d) listed impairment(s), or approved Total Maximum Daily Loads.

Section XI.B.6.g of the 2015 Permit requires dischargers subject to subchapter N to collect and analyze additional parameters specifically required by Subchapter N. Subchapter N section 445 requires facilities designated as solid waste landfills to monitor "contaminated storm water," defined as storm water that has come into contact with landfill wastes, waste handling and treatment areas, or landfill wastewater, and sample such "contaminated storm water" for BOD, TSS, Ammonia (as N), α-Terpineol, Benzoic acid, p-Cresol, Phenol, Zinc, and pH. 40 C.F.R. § 445.1-3, 40 C.F.R. § 445.20-23. Compliance with the effluent limitations set forth in Subchapter N "constitutes compliance with the technology standard of [BAT/BCT]." Industrial General Permit Fact Sheet § J.5.

Finally, permittees must identify and use analytical method detection limits sufficient to determine compliance with the 2015 Permit, including the Effluent Limitations and Receiving Water Limitations. "Test methods with lower detection limits may be necessary when discharging to receiving waters with 303(d) listed impairments or TMDLs." *Id.* § XI.B.6.e.

3.6.3. <u>The Facility Owner and/or Operator Has Violated and Continues to Violate the Storm Water Permit M&RP Requirements</u>.

The Sycamore Landfill Facility Owner and/or Operator has conducted and continues to conduct operations at the Facility with an inadequately developed, implemented, and/or revised M&RP. For example, the Sycamore Landfill Facility Owner and/or Operator has failed and

[25] The 2015 Permit defines a qualifying storm event as one that produces a discharge for at least one drainage area, and is preceded by 48-hours with no discharge from any drainage areas. 2015 Permit, Section XI(B)(1).
[26] A Reporting Year replaced the 1997 permit term Wet Season, and is defined as July 1 through June 30. 2015 Permit, Findings, ¶ 62(b).

continues to fail to sample and analyze storm water discharges for all parameters required by the Storm Water Permit, and fails to collect samples from all discharge locations.

Information available to Coastkeeper and CERF indicates that the Sycamore Landfill Facility Owner and/or Operator has failed to sample for all parameters required by Subchapter N. The 2016 SWPPP acknowledges that the Facility is "subject to Subchapter N ELGs Category 445, Landfills as a Point Source Category." 2016 SWPPP § 2.1.2. Yet the Facility fails to sample for almost all of these required parameters, with the exception of TSS and pH, which are basic parameters required to be monitored by all industrial facilities covered by the Storm Water Permit. On June 25, 2019, the Facility Owner and/or Operator uploaded an attachment to its Annual Report for the 2018-2019 Reporting Period to the SMARTS database which again acknowledges that the Facility is subject to Subchapter N, but which insinuates that the Facility does not need to analyze storm water samples for Subchapter N parameters because it does not discharge "contaminated storm water." The document claims that the landfill is configured to prevent the discharge of storm water that comes into direct contact with landfill waste, the waste handling and treatment areas, landfill leachate, landfill gas condensate, and other landfill wastewater. The document also claims that any such waters "are routed to the landfill's leachate collection system and are hauled off site for disposal at the local Publicly Owned Treatment Works." However, neither of these claims are backed by evidence and the Facility has provided no further explanation in support of these conclusory statements.

Nothing in the Facility's SWPPPs, site maps, or other documents indicates that the Facility has implemented BMPs that would prevent all storm water from coming into contact with landfill waste, the waste handling and treatment areas, or other landfill wastewater; separate contaminated storm water from other storm water at the Facility; entirely prevent the discharge of contaminated storm water; and/or route all contaminated storm water to the leachate collection system. On the contrary, plentiful evidence indicates that not all contaminated storm water is routed to the leachate collection system, and that some contaminated storm water is discharged from the Facility. For example, a Facility inspection conducted by the City of San Diego on February 28, 2017 stated that due to heavy rains, a drainage system above the eastern basin failed, which caused erosion, waste exposure, and a stream of waste to and in the eastern detention basin.[27] The inspection further noted an odor from the exposed waste, and that the drainage system failure caused a haul road to become unsafe for travel. This same inspection reported that the Facility's largest detention basin (identified as "Ruby's Pond") was nearly full, and was at maximum volume and overflowing the day prior. As the largest detention basin was overflowing and a smaller basin was filled with a stream of waste, it is highly likely that the Facility discharged contaminated waste water during this time period. More recently, an inspection conducted by the City of San Diego on February 6, 2019 observed litter and trash in multiple areas of the Facility, including "by the storm water holding channel," through which storm water flows to a sediment pond.[28] Litter and trash constitute "landfill waste." As such, this

[27] Cal Recycle, Inspection Detail for Sycamore Landfill (Feb. 28, 2017), *available at* https://www2.calrecycle.ca.gov/swfacilities/Directory/37-AA-0023/Inspection/417280.
[28] Cal Recycle, Inspection Detail for Sycamore Landfill (Feb. 6, 2019), *available at* https://www2.calrecycle.ca.gov/swfacilities/Directory/37-AA-0023/Inspection/444163.

inspection report evidences storm water coming into direct contact with landfill waste in multiple locations around the Facility, which would thereafter flow into detention basins, not the leachate collection system. Further, as discussed in Section 3.5.3, *supra*, storm water from the detention basins is discharged from time to time, and the Facility has failed to analyze any such discharges for Subchapter N parameters as required by the Storm Water Permit.

Moreover, 40 C.F.R. § 445.2(b) explains that "[s]ome specific areas of a landfill that may produce contaminated storm water include (*but are not limited to*): the open face of an active landfill with exposed waste (no cover added); the areas around wastewater treatment operations; *trucks, equipment or machinery that has been in direct contact with the waste*; and waste dumping areas." (emphasis added). Coastkeeper and CERF note that "trucks, equipment or machinery that has been in direct contact with the waste" are frequently maneuvering around various locations within the Facility. Access roads and maintenance areas associated with landfill operations are classified as industrial activities by 40 C.F.R. § 122.26(b)(14). Storm water that comes into contact with any such equipment or areas associated with landfilling activities becomes contaminated storm water. As such, during each and every rain event, contaminated storm water will be present at various locations throughout the Facility. Much of this contaminated storm water is routed to storm water infrastructure and detention basins, not to the leachate collection system, and some of this contaminated storm water is discharged. As the Facility has failed to analyze any storm water discharges for Subchapter N parameters, the Sycamore Landfill Facility Owner and/or Operator has violated and continues to violate Section XI.B.6.g of the 2015 Permit.

Information available to Coastkeeper and CERF indicates that the Sycamore Landfill Facility Owner and/or Operator has failed to sample for numerous constituents likely to be present at the Facility in violation of Section XI.B.6.c of the 2015 Permit. In light of the Facility's landfilling activities and the various waste streams accepted by the Facility, scores of pollutants are likely present at the Sycamore Landfill Facility, as previously explained in Section 2.2, *supra*. However, aside from iron, the Sycamore Landfill Facility Owner and/or Operator has failed and continues to fail to sample for any of these "additional" parameters in violation of Section B.5.c of the 1997 Permit, and Section XI.B.6.c of the 2015 Permit.

Section XI.B.6.c clearly states that a Facility must analyze samples for all parameters that serve as indicators for the presence of all industrial pollutants identified in the pollutant source assessment, incorporating all of Section X.G.2, which sets forth SWPPP pollutant source assessment requirements. Section X.G.2a.ii in turn, requires the inclusion of all "pollutants likely to be present in industrial storm water discharges and authorized NSWDs." As such, the Storm Water Permit requires the Facility Owner and/or Operator to analyze samples for all parameters that indicate the presence of "pollutants likely to be present" in the Facility's discharges. *See* 1997 Permit § B.5.c; 2015 Permit § XI.B.6.c. However, as the Facility's pollutant source assessment is woefully inadequate and fails to identify numerous pollutants, the Facility's M&RP is likewise inadequate, and fails to require the analysis of numerous pollutants in violation of the Storm Water Permit.

Furthermore, as noted in multiple sections *supra*, the Facility's own monitoring data indicates that storm water discharged on December 17, 2014 contained N+N at a concentration of 3.63 mg/L, exceeding the Basin Plan Water Quality Objective of 1.0 mg/L, and EPA Benchmark of 0.68 mg/L. Yet, the Facility Owner and/or Operator ceased sampling for N+N after December 17, 2014 without providing explanation or implementing any BMPs to reduce and/or prevent discharges of N+N in the Facility's storm water. This evidence indicates that nitrogen-based compounds and other nutrients are present at the Facility, yet the Facility Owner and/or Operator continues to fail to analyze samples for any nitrogen-based compounds in violation of the Storm Water Permit. *See* 1997 Permit § B.5.c; 2015 Permit § XI.B.6.c.

The Sycamore Landfill Facility Owner and/or Operator has failed and continues to fail to develop and/or implement an M&RP that requires the collection of storm water samples from all discharge locations at the Facility in violation of Section XI.B.4 of the 2015 Permit. Information available to Coastkeeper and CERF indicates that storm water likely discharges from the Facility at points other than SYC-1. For example, there are multiple storm water drain inlets along the internal paved road within DA-3. Waste hauling vehicles frequently travel along this road, and thus industrial activity occurs along this road. Storm water from these areas does not collect in a sediment or detention basin to settle out solids and other pollutants before it is discharged. However, the Facility Owner and/or Operator has never collected storm water samples from these drainage inlets and/or discharge locations. The Sycamore Landfill Facility has collected storm water from only a single drainage point for each sample collected over the past five years. Almost all of the samples collected have been taken from sample site SYC-1. However, on January 27, 2016, the Facility collected storm water from sampling location "L/R." However, "L/R" is not labeled on the site map, nor mentioned in any Facility SWPPP. Although not all of the Facility's discharge points discharge storm water during each and every rain event due to the capacity of sediment or detention basins, information available to Coastkeeper and CERF indicates that storm water is discharged from the Facility at more than a single point during each QSE from locations within the Facility that do not drain to detention basins. Thus, the Facility Owner and/or Operator has failed and continues to fail to collect storm water samples from all discharge locations at the Facility in violation of the Storm Water Permit.

Section XI.B.4 of the 2015 Permit specifically requires dischargers to collect samples "from *each drainage area* at *all* discharge locations." While Section B.7.d of the 1997 Permit and Section XI.C.4 of the 2015 Permit allow permittees to reduce the number of locations to be sampled in certain limited circumstances, "Dischargers with facilities subject to storm water ELGs in Subchapter N are ineligible for the Representative Sampling Reduction in Section XI.C.4." 2015 Permit § XI.D.3. Thus the Sycamore Landfill Facility is in violation of the Storm Water Permit for failing to collect samples from all drainage areas and discharge points.

The Sycamore Landfill Facility Owner and/or Operator also failed to collect and analyze storm water samples from the required number of QSEs during every reporting period since the issuance of the 2015 Permit. The Facility only collected one total sample during the 2015-16 reporting period, failed to collect any samples from July 1 to December 31 in 2016 during the 2016-17 reporting period, failed to collect any samples during the 2017-18 reporting period, and has only collected one sample during the current 2018-19 reporting period. The Facility Owner

and/or Operator has not collected or analyzed any storm water samples in 2019 despite numerous heavy rainfalls in January and February. Given that similarly heavy rainfalls in February 2017 caused the Facility's largest detention basin to reach capacity and overflow, and no information indicates that the Facility expanded or improved its storm water detention basin capacity, there is a significant likelihood that the Facility discharged storm water in 2019 without collecting samples as required by the Storm Water Permit.

Finally, the Storm Water Permit requires dischargers to conduct visual observations of storm water discharges, of authorized and unauthorized NSWDs, and of BMPs. Based on information available to Coastkeeper and CERF, including Annual Reports, the Sycamore Landfill Facility Owner and/or Operator fails to consistently and/or adequately conduct the required discharge observations and monitoring of BMPs.

Accordingly, the Sycamore Landfill Facility Owner and/or Operator has failed and continues to fail to adequately develop, implement, and/or revise a M&RP, in violation of the Storm Water Permit. Every day the Facility operates with an inadequately developed and/or implemented M&RP, or with an improperly revised M&RP is a separate and distinct violation of the Storm Water Permit and the Clean Water Act. The Sycamore Landfill Facility Owner and/or Operator has been in daily and continuous violation of the Storm Water Permit M&RP requirements since at least August 26, 2014. These violations are ongoing, and Coastkeeper and CERF will include additional violations when information becomes available. The Sycamore Landfill Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since August 26, 2014.

3.7. Failure to Comply with the Storm Water Permit's Reporting Requirements.

Section B.14 of the 1997 Permit requires a permittee to submit an Annual Report to the Regional Board by July 1 of each year. Section B.14 requires that the Annual Report include a summary of visual observations and sampling results, an evaluation of the visual observation and sampling results, the laboratory reports of sample analysis, the annual comprehensive site compliance evaluation report, an explanation of why a permittee did not implement any activities required, and other information specified in Section B.13. The 2015 Permit includes the same annual reporting requirements but changed the Annual Report due date to July 15. *See* 2015 Permit § XVI.

The Sycamore Landfill Facility Owner and/or Operator has failed and continues to fail to submit Annual Reports that comply with the Storm Water Permit reporting requirements. First, the Facility Owner and/or Operator simply failed to upload an Annual Report to the SMARTS database for the reporting period of 2017-18. Additionally, the lists of pollutants identified within the impaired watershed for the 2015-16 and 2016-17 Annual Reports are erroneous. For example, these Annual Reports indicate that N+N and total nitrogen were not present at the Facility. However, as discussed *supra*, the Facility's own monitoring data from 2014 indicates high levels of N+N were discharged from the Facility. The 2015-16 and 2016-17 Annual Reports also state that enterococcus, fecal coliform, manganese, selenium, phosphorus, and total dissolved solids were not present at the Facility. However, as previously noted, information

available to Coastkeeper and CERF indicates that all of these pollutants are commonly present in the Facility's storm water discharges.

In each Annual Report since the filing of the 2013-14 Annual Report, the Facility Owner and/or Operator certified that: (1) a complete Annual Comprehensive Site Compliance Evaluation was conducted as required by the Storm Water Permit; (2) the SWPPP's BMPs address existing potential pollutant sources; and (3) the SWPPP complies with the Storm Water Permit, or will otherwise be revised to achieve compliance. However, information available to Coastkeeper and CERF indicates that these certifications are erroneous. For example, storm water samples collected from the Facility repeatedly and consistently contain concentrations of pollutants above EPA Benchmarks and WQSs, thus demonstrating that the Facility BMPs do not adequately address existing potential pollutant sources. Further, as discussed *supra* in Section 3.5.3 and 3.6.3, the Facility's SWPPP does not include many elements required by the Storm Water Permit, and thus it is erroneous to certify that the SWPPP complies with the Storm Water Permit.

In addition, the Facility Owner and/or Operator must report any noncompliance with the Storm Water Permit at the time that the Annual Report is submitted, including 1) a description of the noncompliance and its cause, 2) the period of noncompliance, 3) if the noncompliance has not been corrected, the anticipated time it is expected to continue, and 4) steps taken or planned to reduce and prevent recurrence of the noncompliance. 1997 Permit § C.11.d; 2015 Permit § XVI.B.2. The Sycamore Landfill Facility Owner and/or Operator has not accurately reported non-compliance, as required.

Given that the Sycamore Landfill Facility Owner and/or Operator has submitted incomplete and/or incorrect Annual Reports that fail to comply with the Storm Water Permit, the Sycamore Landfill Facility Owner and/or Operator is in daily violation of the Storm Water Permit. Every day the Sycamore Landfill Facility Owner and/or Operator conducts operations at the Facility without reporting as required by the Storm Water Permit is a separate and distinct violation of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. §1311(a). The Sycamore Landfill Facility Owner and/or Operator has been in daily and continuous violation of the Storm Water Permit's reporting requirements every day since at least August 26, 2014. These violations are ongoing, and Coastkeeper and CERF will include additional violations when information becomes available. The Sycamore Landfill Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since August 26, 2014.

3.8. Failure to Comply with Level 1 Exceedance Response Action Requirements.

When the 2015 Permit became effective on July 1, 2015, all permittees were in "Baseline status" for all parameters listed in Table 2 of the 2015 Permit. 2015 Permit § XII.B. A permittee's Baseline status for any given parameter changes to "Level 1 status" if sampling results indicate a NAL exceedance for that same parameter. *Id.* § XII.C. Level 1 status commences on July 1 following the Reporting Year during which the exceedance(s) occurred, and the discharger enters the Exceedance Response Action ("ERA") process. *Id.* The ERA

process requires the discharger to conduct an evaluation, with the assistance of a Qualified Industrial Storm Water Practitioner ("QISP"), of the industrial pollutant sources at the facility that are or may be related to the NAL exceedance(s) by October 1 following commencement of Level 1 status. *Id.* § XII.C.1.a-b. The evaluation must include the identification of the "corresponding BMPs in the SWPPP and any additional BMPs and SWPPP revisions necessary to prevent future NAL exceedances and to comply with the requirements of the General Permit." *Id.* § XII.C.1.c. "Although the evaluation may focus on the drainage areas where the NAL exceedance(s) occurred, all drainage areas shall be evaluated." *Id.*

Based upon this Level 1 status evaluation, the permittee is required to, as soon as practicable but no later than January 1 following commencement of Level 1 status, prepare a Level 1 ERA Report. *Id.* § XII.C.2. The Level 1 Report must be prepared by a QISP and include a summary of the Level 1 ERA evaluation and a detailed description of the SWPPP revisions and any additional BMPs for each parameter that exceeded a NAL. *Id.* § XII.C.2.a.i-ii. The SWPPP revisions and additional BMP development and implementation must also be completed by January 1, and the Level 1 status discharger is required to submit via SMARTS the Level 1 ERA Report certifying the evaluation has been conducted, and SWPPP revisions and BMP implementation have been completed. *Id.* The certification also requires the QISP's identification number, name, and contact information (telephone number, e-mail address) no later than January 1 following commencement of Level 1 status. *Id.* § XII.C.2.a.iii. A permittee's Level 1 status for a parameter will return to Baseline status if a Level 1 ERA report has been completed, all identified additional BMPs have been implemented, and results from four (4) consecutive qualified storm events that were sampled subsequent to BMP implementation indicate no additional NAL exceedances for that parameter. *Id.* § XII.C.2.b. A permittee will enter a Level 2 status if there is a NAL exceedance of the same parameter when the discharger is in Level 1 status. *Id.* § D.

The Facility Owner and/or Operator is in Level 2 status for TSS and iron based on NAL exceedances during the 2015-16, 2016-17, and 2017-18 reporting periods. The Facility entered Level 1 status for TSS and iron following the 2015-16 reporting period, during which the Facility's annual average for TSS was 351 mg/L, over three times higher than the annual NAL of 100 mg/L. The Facility's annual average for iron for the 2015-16 reporting period was 11.9 mg/L, over eleven times higher than the annual NAL of 1.0 mg/L. The following year Facility entered Level 2 status with an annual average of 112 mg/L for TSS, and 5.58 mg/L for iron. The Facility thereafter failed to collect any storm water samples during the 2017-18 reporting period, and thus remained in Level 2 status for both TSS and iron.

Accordingly, in September 2016, the Facility Owner and/or Operator submitted a consolidated ERA Level 1 Evaluation and Report for TSS and iron ("2016 Level 1 ERA Report"). Despite the repeated NAL exceedances for TSS and iron, the Facility Owner and/or Operator has failed to conduct an adequate Level 1 status evaluation to identify additional BMPs and SWPPP revisions necessary to prevent future NAL exceedances at the Facility. The evaluation supposedly included a review of the SWPPP, the M&RP, BMPs, and the Facility site map, yet based on the evaluation, the Level 1 ERA Report did not identify any deficiencies with the Facility SWPPP. 2016 Level 1 ERA Report § 4. The Facility Owner and/or Operator has also

failed to submit an adequate ERA Report and has not adequately revised its SWPPP detailing necessary additional BMPs to prevent future NAL exceedances as required by the Storm Water Permit. Thus, the Facility Owner and/or Operator has failed and continues to fail to comply with Section XII of the 2015 Permit.

The discussion of NAL exceedances for TSS and iron in the 2016 Level 1 ERA Report is inadequate. For example, rather than conducting an evaluation to identify the BMPs implemented at the Facility that correspond to the NAL exceedances at the Facility, the TSS Level 1 ERA Report notes that the only "likely source" of TSS and iron at the Facility is "non-industrial, natural background." 2016 Level 1 ERA Report § 5. The Report claims that the only potential sources of these pollutants are landfill slopes, background iron, and soils from sedimentation basins. *Id.* Hence, the 2016 Level 1 ERA Report lacks the required detail and site-specific evaluation and analysis required by the 2015 Permit. Accordingly, among other reasons, the 2016 Level 1 ERA Report fails to meet the requirements of Section XII.C of the 2015 Permit. As a result of the inadequacies of the 2016 ERA Level 1 Report, the Facility entered Level 2 status, and has remained in Level 2 status because the Facility's Level 2 ERA reports and analysis have continued to lack site-specific evaluation, analysis, and detail as required by the 2015 Permit. The Facility has failed to revise the Facility SWPPP and to develop and/or implement BMPs to reduce or eliminate discharges of pollutants in exceedance of NALS in violation of the Storm Water Permit.

In December 2017, the Sycamore Landfill Facility Owner and/or Operator published the Level 2 ERA Action Plan, which is publicly available on the SMARTS online database ("2017 ERA Level 2 Action Plan"). The 2015 Permits requires that a Level 2 ERA Action Plan shall at a minimum address the drainage areas with corresponding Level 2 NAL exceedances. 2015 Permit § XII.D.1.c. As previously discussed, the Facility Owner and/or Operator has failed to collect samples from each drainage area and all discharge points. For example, information available to Coastkeeper and CERF indicates that the Facility discharges storm water from the eastern side of the Facility, and yet has failed to collect any samples from such discharges. As such, the 2017 ERA Level 2 Action Plan fails to address these discharges in violation of the Storm Water Permit. Furthermore, information available to Coastkeeper and CERF also indicates that storm water from DA-1 flows down slopes and roads into DA-2, where it is thereafter discharged from various detention basins and potentially discharged from the Facility at SYC-1. However, the 2017 ERA Level 2 Action Plan states that NAL exceedances are not applicable to DA-1. This claim is patently erroneous.

On December 31, 2018, the Facility Owner and/or Operator published a soil background study ("2018 ERA Soil Background Study" or "2018 Soil Study"), which claims that "the background threshold value (BTV) for total iron concentration in soil was calculated to be 2.8% total iron." In light of this claim, the 2018 Soil Study requested that the NAL for total iron be increased to 2.8 mg/L total iron, "the iron level associated with the current allowable annual average TSS concentrations of 100 mg/L." Section XII.D.2.c.i of the 2015 Permit requires that natural background pollutant source determinations, like the soil background study, must prove that iron is solely in background soil "that has not been disturbed by industrial activities." The 2018 ERA Soil Background Study fails to meet these requirements. The Facility Owner and/or

Operator is constantly disturbing soil as a part of industrial activities and the 2018 Soil Study fails to acknowledge this.

Furthermore, the results of the soil study are highly self-serving, and break down when held against the Facility's own monitoring data. For example, while the Soil Study claims that the total iron concentration in soil was calculated to be 2.8% to 3.8% total iron, the Facility's own data from February 22, 2017 shows TSS to be 112 mg/L, and iron to be 5.73 mg/L. If, according to the soil study's findings, iron at the Facility solely comes from background soil concentrations, the concentration of iron in the February 22, 2017 sample should have been a maximum of approximately 4.26 mg/L. That the actual concentration of iron was higher than this figure, indicates that significant sources of iron exist on the Facility aside from the background quantity in the soil. As such, the 2018 ERA Soil Background Study fails to meet the requirements of Section XII.D.2.c.i of the 2015 Permit.

The Sycamore Landfill Facility Owner and/or Operator has failed and continues to fail to conduct adequate Level 1 status evaluation and report that complies with the Storm Water Permit. Additionally, the Facility Owner and/or Operator has failed and continues to fail to comply with ERA Level 2 requirements. As such, the Facility Owner and/or Operator is in daily violation of the Storm Water Permit. Every day the Facility Owner and/or Operator conducts operations at the Facility without an adequate Level 1 status evaluation, and/or without submitting adequate Level 1 and/or Level 2 ERA Reports and Studies is a separate and distinct violation of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. §1311(a). The Facility Owner and/or Operator has been in daily and continuous violation of the Storm Water Permit's Level 1 status ERA evaluation requirement every day since October 1, 2016. The Facility Owner and/or Operator has been in daily and continuous violation of the Storm Water Permit for failing to submit adequate ERA Reports every day since January 1, 2017. These violations are ongoing, and Coastkeeper and CERF will include additional violations when information becomes available. The Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act and Storm Water Permit's Level 1 status ERA evaluation requirements every day since October 1, 2016. The Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act and Storm Water Permit's Level 1 ERA Report requirements every day since January 1, 2017.

4. RELIEF SOUGHT FOR VIOLATIONS OF THE CLEAN WATER ACT

Pursuant to Section 309(d) of the Clean Water Act, 33 U.S.C. § 1319(d), and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. § 19.4, each separate violation of the Clean Water Act subjects the violator to a penalty for all violations occurring during the period commencing five years prior to the date of the Notice Letter. These provisions of law authorize civil penalties of $37,500.00 per day per violation for all Clean Water Act violations after January 12, 2009 and $54,833.00 per day per violation for violations that occurred after November 2, 2015.

In addition to civil penalties, Coastkeeper and CERF will seek injunctive relief preventing further violations of the Clean Water Act pursuant to Sections 505(a) and (d), 33

U.S.C. § 1365(a) and (d), declaratory relief, and such other relief as permitted by law. Lastly, pursuant to Section 505(d) of the Clean Water Act, 33 U.S.C. § 1365(d), Coastkeeper and CERF will seek to recover their litigation costs, including attorneys' and experts' fees.

5. CONCLUSION

Coastkeeper and CERF are willing to discuss effective remedies for the violations described in this Notice Letter. However, upon expiration of the 60-day notice period, Coastkeeper and CERF will file a citizen suit under Section 505(a) of the Clean Water Act for the COMPANY Facility Owner and/or Operator's violations of the Storm Water Permit.

If you wish to pursue settlement discussions, please contact Coastkeeper and CERFs legal counsel:

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Sincerely,

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EXHIBIT 1

Exhibit 1, Storm Water Sampling Results from the Republic Sycamore Landfill Facility

No.	Date of Collection	Sample Location	Parameter	Units	Result	Benchmark/ WQO	Annual NAL
1	12/17/14	SYC-1	Electrical Conductivity @ 25 Deg. C	umhos/cm	890	200[2]	N/A
2	12/17/14	SYC-1	Iron, Total	mg/L	4.32	1.0[1]	1.0
3	12/17/14	SYC-1	Nitrate Plus Nitrite (as N)	mg/L	3.63	0.68[2]	1.0
5	12/17/14	SYC-1	pH	SU	6	6.5-8.5[1]	6.0-9.0
6	1/7/16	SYC-1	Iron, Total	mg/L	11.9	1.0[1]	1.0
7	1/7/16	SYC-1	Total Suspended Solids (TSS)	mg/L	351	100[2]	100
8	1/7/16	SYC-1	pH	SU	3	6.5-8.5[1]	6.0-9.0
9	1/23/17	SYC-1	Iron, Total	mg/L	10.3	1.0[1]	1.0
10	1/23/17	SYC-1	Total Suspended Solids (TSS)	mg/L	284	100[2]	100
12	1/25/17	SYC-1	Iron, Total	mg/L	3.7	1.0[1]	1.0
13	1/27/17	"L/R"	Iron, Total	mg/L	2.59	1.0[1]	1.0
14	2/22/17	SYC-1	Iron, Total	mg/L	5.73	1.0[1]	1.0
15	2/22/17	SYC-1	Total Suspended Solids (TSS)	mg/L	112	100[2]	100
16	12/22/18	SYC-1	Iron, Total	mg/L	0.312	1.0[1]	1.0

1 - Basin Plan Objective applicable to the San Diego River at time of sample collection
2 - MSGP EPA Benchmark Table 8.J-1, 8.E-1, or 8.C-1

EXHIBIT 2

Exhibit 2: Precipitation Data for Republic Sycamore Landfill Facility

National Oceanic & Atmospheric Administration
National Environmental Satellite, Data, and Information Service
Record of Climatological Observations
Station: San Diego 9 NE, CA US US1CASD0049
Location Elev: 292 ft., Lat: 32.8168° N, Lon: -117.0586° W

Date	Daily Precipitation (inches)
8/3/2014	0.09
9/16/2014	0.12
11/1/2014	0.4
11/2/2014	0.14
11/14/2014	0.03
11/21/2014	0.12
11/22/2014	0.19
11/30/2014	0.03
12/3/2014	0.73
12/4/2014	1.05
12/5/2014	0.03
12/13/2014	1.05
12/16/2014	0.34
12/17/2014	0.41
12/18/2014	0.15
12/19/2014	0.03
12/26/2014	0.03
12/31/2014	0.25
1/1/2015	0.03
1/11/2015	0.08
1/12/2015	0.24
1/26/2015	0.05
1/30/2015	0.01
2/23/2015	0.28
2/24/2015	0.03
2/28/2015	0.05
3/1/2015	0.86
3/2/2015	0.16
4/24/2015	0.06
4/26/2015	0.08
5/8/2015	0.07
5/9/2015	0.67

Date	Daily Precipitation (inches)
5/15/2015	0.78
5/16/2015	0.38
5/22/2015	0.02
5/23/2015	0.01
7/1/2015	0.1
7/18/2015	0.8
7/20/2015	0.92
8/25/2015	0.04
9/16/2015	1.32
9/17/2015	0.02
10/4/2015	0.17
10/5/2015	0.27
11/3/2015	0.06
11/4/2015	0.98
11/5/2015	0.02
11/9/2015	0.09
11/25/2015	0.24
11/27/2015	0.18
12/12/2015	0.36
12/14/2015	0.17
12/22/2015	0.33
12/23/2015	0.08
12/25/2015	0.03
12/29/2015	0.26
1/4/2016	0.13
1/5/2016	1.8
1/6/2016	1.01
1/7/2016	1.17
1/8/2016	0.47
1/10/2016	0.03
1/31/2016	0.29
2/1/2016	0.29

Exhibit 2: Precipitation Data for Republic Sycamore Landfill Facility

Date	Daily Precipitation (inches)
2/18/2016	0.06
3/6/2016	0.45
3/7/2016	0.51
3/12/2016	0.19
4/7/2016	0.56
4/8/2016	0.24
4/10/2016	0.45
4/30/2016	0.05
5/6/2016	0.53
9/20/2016	0.03
9/21/2016	0.36
10/25/2016	0.38
11/21/2016	0.5
11/27/2016	0.56
12/16/2016	1.3
12/21/2016	0.03
12/22/2016	1
12/23/2016	0.15
12/24/2016	0.84
12/25/2016	0.18
12/30/2016	0.18
12/31/2016	0.28
1/1/2017	0.53
1/6/2017	0.23
1/9/2017	0.23
1/11/2017	0.13
1/13/2017	1.01
1/14/2017	0.08
1/19/2017	0.7
1/20/2017	0.48
1/22/2017	1.22
1/23/2017	0.21
1/24/2017	0.2
2/5/2017	0.02
2/7/2017	0.53
2/11/2017	0.05
2/18/2017	1.28

Date	Daily Precipitation (inches)
2/19/2017	0.31
2/20/2017	0.06
2/26/2017	0.1
2/27/2017	0.7
2/28/2017	2.8
3/6/2017	0.05
3/23/2017	0.07
5/6/2017	0.05
5/7/2017	0.3
5/8/2017	0.8
5/9/2017	0.02
5/16/2017	0.05
6/10/2017	0.02
9/1/2017	0.06
12/21/2017	0.07
1/9/2018	1.25
1/10/2018	0.77
1/11/2018	0.09
1/20/2018	0.02
2/22/2018	0.09
2/28/2018	0.54
3/3/2018	0.07
3/4/2018	0.07
3/11/2018	0.86
3/16/2018	0.42
3/17/2018	0.34
3/18/2018	0.25
3/23/2018	0.06
3/24/2018	0.01
4/20/2018	0.09
5/2/2018	0.07
5/21/2018	0.04
10/13/2018	0.29
10/14/2018	0.03
11/22/2018	0.12
11/23/2018	0.02
11/29/2018	0.23

Exhibit 2: Precipitation Data for Republic Sycamore Landfill Facility

Date	Daily Precipitation (inches)
11/30/2018	0.79
12/1/2018	0.02
12/6/2018	0.88
12/7/2018	1.93
12/25/2018	0.08
12/26/2018	0.65
1/1/2019	0.68
1/6/2019	0.57
1/12/2019	0.38
1/13/2019	0.03
1/15/2019	0.73
1/16/2019	0.38
1/17/2019	0.01
1/18/2019	0.41
1/19/2019	0.02
1/21/2019	0.08
2/1/2019	0.78
2/2/2019	0.2
2/3/2019	0.9
2/4/2019	0.03
2/5/2019	1.24
2/6/2019	0.22
2/10/2019	0.02
2/14/2019	1.03
2/15/2019	1.29
2/16/2019	0.1
2/17/2019	0.2
2/18/2019	0.12
2/21/2019	0.39
2/22/2019	0.3
3/2/2019	0.19
3/3/2019	0.15
3/6/2019	0.05
3/7/2019	0.2
3/8/2019	0.1
3/12/2019	0.25
3/13/2019	0.05

Date	Daily Precipitation (inches)
3/20/2019	0.1
3/21/2019	0.03
4/4/2019	0.13
4/6/2019	0.07
4/30/2019	0.1
5/1/2019	0.2
5/6/2019	0.01
5/7/2019	0.12
5/10/2019	0.05
5/11/2019	0.05
5/12/2019	0.17
5/17/2019	0.15
5/20/2019	0.54
5/21/2019	0.1
5/22/2019	0.03
5/23/2019	0.08
5/26/2019	0.02
5/27/2019	0.16
6/21/2019	0.05